

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

W. Randall Taylor Revocable Living Trust,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0874
Parcel No. 100/01502-019-386

On July 3, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant W. Randall Taylor Revocable Living Trust requested its appeal be considered without hearing and was self-represented. Assistant County Attorneys David Hibbard, Ralph E. Marasco, Jr. and Anastasia Hurn represent the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

W. Randall Taylor Revocable Living Trust (Taylor Trust), owner of property located at 4514 47th Street, Des Moines, Iowa, appeal from the Polk County Board of Review decision reassessing its property. According to the property record card, the subject property consists of a two-story dwelling having 2807 square feet of living area built in 1989. The dwelling has a full, unfinished basement, a 206 square-foot open porch, a 325 square-foot deck, and an 851 square-foot attached garage. It has a high-quality (2-10) construction grade and is in above-normal condition. The improvements are situated on a 0.427 acre, cul-de-sac site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$292,900, representing \$38,200 in land value and \$254,700 in dwelling value.

Taylor Trust protested to the Board of Review that its property is assessed inequitably as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). It also commented in the section for an error claim; however, the comments are related to Taylor Trust's equity claim. The Board of Review granted the protest, in part, and reduced the value to \$285,600, representing \$38,200 in land value and \$247,400 in dwelling value.

Taylor Trust then filed its appeal with this Board based on the same ground. It requested a reduction in value to \$240,600, allocated \$38,200 to land value and \$202,400 to dwelling value.

Taylor Trust identified only one property as a comparable for equity purposes. It is located at 4419 Bel Aire Road. Taylor Trust contends the assessed value of that property went down 10.33% in 2009. The property has an assessed value of \$223,700, and Taylor Trust believes the two properties are nearly alike. We note that while the Bel Aire Road property and the subject property are similar in style, size, and both have the same age, the subject property is in superior condition, has a larger deck, an additional open porch, a significantly larger attached garage, and sits on a larger cul-de-sac site. These differences appear to result in Taylor Trust property's higher valuation.

The Board of Review Appraiser recommended the subject property's assessment be reduced to \$285,600 because the assessment was not equitable. Taylor Trust identified a property located at 4419 Bel Aire for assessment comparison. The Board of Review reduced the assessment by changing the subject's construction quality grade from 2-10 to 3+10.

The certified record includes a list of properties in the subject property's neighborhood. We find five of the properties are similar to the subject property; they are two-story dwellings, built between 1987 and 1990, with construction quality grades between 3-10 to 3+10, in above-normal condition, and having between 2000 and 3000 square feet of living area. The properties are assessed at \$91.32 per square foot to \$101.78 per square foot with a median of \$96.38 per square foot. The subject property's assessment per square foot of \$101.75, which is above the median, but within the

range per square foot of comparable properties listed in the area report. The chart following summarizes these comparisons.

Address	Year Built	Design	Grade	Condition	TSFLA	AV	AV PSF
Subject	1989	2-story	3+10	Ab Normal	2807	\$ 285,600	\$ 101.75
4410 46th	1987	2-story	3+05	Ab Normal	2357	\$ 239,900	\$ 101.78
4500 47th	1989	2-story	3-05	Ab Normal	2000	\$ 202,300	\$ 101.15
4507 48th	1989	2-story	3+00	Ab Normal	2188	\$ 199,800	\$ 91.32
4513 49th	1990	2-story	3-10	Ab Normal	2129	\$ 205,200	\$ 96.38
4501 Bel Aire	1988	2-story	3-05	Ab Normal	2079	\$ 199,200	\$ 95.82

Viewing the record as a whole, we find the preponderance evidence does not support Taylor Trust's claim its property was inequitably assessed as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value

established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

Additionally, the Iowa Supreme Court has interpreted “representative number of comparable properties” to be more than one property. Iowa Code § 441.37(1)(a); *Maxwell v. Shiver*, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This “statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board.” *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 448 N.W.2d 436, 441 (Iowa 1992), *overruled on other grounds by Transform, Ltd. v. Assessor of Polk County*, 543 N.W.2d 614 (Iowa 1996). Taylor Trust failed to provide sufficient comparable properties and failed to prove inequity under either the *Maxwell* or *Eagle Foods* tests.

Therefore, we affirm the property assessment as determined by the Board of Review of \$285,600, representing \$38,200 in land value and \$247,400 in dwelling value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 17 day of August 2012.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

Copies to:
W. Randall Taylor, Trustee
W. Randall Taylor Revocable Living Trust
4514 47th Street
Des Moines, IA 50310
APPELLANT

David Hibbard/Ralph E. Marasco, Jr./Anastasia Hurn
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
ATTORNEYS FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-17</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	